

## REMARKS

The Final Office Action, mailed March 28, 2008, considered claims 1–21. Claims 1–20 were objected to because of the listed informalities. Claims 1, 3–11, 13 and 17–21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nathaniel, U.S. Patent Pub. No. 2003/0130887 (filed Oct. 3, 2001) (hereinafter Nathaniel) and Carruthers et al., U.S. Patent Pub. No. 2002/0128904 (filed Jan. 23, 2001) (hereinafter Carruthers), in view of Zigmond et al., U.S. Patent No. 6,698,020 (filed Jun. 15, 1998) (hereinafter Zigmond). Claims 2, 12 and 14–16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nathaniel, and Carruthers, in view of Zigmond, and further in view of Cannon, U.S. Patent No. 6,286,005 (filed Mar. 11, 1998) (hereinafter Cannon).<sup>1</sup>

By this response, claims 1, 3, 8–10, 12, and 15–20 are amended such that claims 1–21 remain pending.<sup>2</sup> Claims 1, 13, and 21 are independent claims which remain at issue. Support for the amendments may be found generally throughout the Specification.<sup>3</sup>

As reflected in the claims, the present invention is directed generally toward embodiments for scheduling an advertising campaign to achieve an advertising impression goal for advertising displayed via receivers.

Claims 1–20 were objected to because of informalities. Claims 1, 3, 8–10, 12, and 15–20 have now been amended as recommended by the Examiner to cure the objections.

Each of the independent claims at issue, claims 1, 12, and 21, were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nathaniel and Carruthers in further view of Zigmond.<sup>4</sup>

However, the Applicant respectfully notes that Zigmond is an improper reference for any rejection based on 35 U.S.C. § 103, including the rejections made with respect to independent claims 1, 12, and 21. In particular, Zigmond should be disqualified as a prior art reference under

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<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

<sup>2</sup> The amendments and remarks presented herein are consistent with the information presented by telephone by patent attorney John Bacoch (reg. no. 59,890) and attorney Thomas Bonacci.

<sup>3</sup> The amendments are offered to cure objections because of informalities. However, it should be noted that the present invention and claims as recited take support from the entire Specification. As such, no particular part of the Specification should be considered separately from the entirety of the Specification.

<sup>4</sup> Office Communication p. 11, *et seq.* (paper no. 20080322, mailed Mar. 28, 2008).

35 U.S.C. § 103(c) inasmuch as Zigmond was, at the time the present invention was made, commonly assigned to, or subject to assignment to, the Assignee of the present application (namely Microsoft, through WebTV Networks).

As each of the rejections of the independent claims relies, at least in part, upon Zigmond, the Applicants respectfully submit that a rejection under 35 U.S.C. 103(a) would be improper and should be withdrawn. Accordingly, the Applicants respectfully request favorable reconsideration of each of the claims in view of the disqualification of Zigmond.

In view of the foregoing, Applicants respectfully submit that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicants acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicants reserve the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicants specifically request that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 9<sup>th</sup> day of May, 2008.

Respectfully submitted,



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